SBCivil Writ Petition No.2075/1994

Smt.Sushila Devi & Ors.
v.
State of Rajasthan & Ors.

Date of Order :: 24th April, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Avinash Acharya, for the petitioners.
Mr. B.L.Tiwari, Dy.Govt.Advocate.
Mr. M.R.Singhvi, for the respondents.

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The Government of Rajasthan under a notification dated 28.10.1992 while exercising powers under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as “the Act of 1894”) intended to acquire a chunk of land situated in village Kesarpura, Tehsil Sheoganj, District Sirohi including the land bearing khasra Nos.98, 106 and 107. A declaration for acquisition of land referred above was made by the State Government under Section 6 of the Act of 1894 vide a notification dated 15.2.1994.

Being aggrieved by the notification dated 15.2.1994 and the notification dated 28.10.1992 the instant petition for writ is preferred by the petitioners claiming themselves to be the tenants of the land bearing khasra Nos.98, 106 and 107.

The only contention of counsel for the petitioners while giving challenge to the notifications impugned is that on the land in question a thick forest is existing and its acquisition for the purpose of development of industrial area will adversely effect the environment and ecology of the area concerned. To substantiate the contention the petitioners have placed on record certain documents issued by the Tehsildar, Sheoganj and Divisional Forest Officer, Sirohi stating therein that on the land in dispute certain trees and bushes are standing.

A reply to the writ petition has been filed on behalf of the respondents mentioning therein that the land in question is a private land and it is not at all a forest declared under the Forest Act or under any other statute.

Counsel for the petitioners while accepting the fact that the land in question is not a forest land tried to attract attention of the court on basis of certain photographs placed on record about existence of trees on the land in question. It is urged by counsel for the petitioners that a thick forest is required to be protected to provide lungs to the nearby urban area.

Heard counsel for the parties.

I am having no doubt that a forest must be protected to provide a salubrious environment, ecology and also to flourish flora and funa but mere assertion that acquisition of the land will effect environment and ecology adversely is not sufficient to stop to process of development. A person making allegation of spoiling environment and ecological balance must prove it by placing unimpeachable finding based on scientific study and data in this regard. They should also be equipped sufficiently to prove the irreparable loss going to be caused. In the instant matter the admitted position is that the area in question is not part of the forest land declared as a forest under any statute. In normal course every open land carries trees and bushes and if for a public purpose such land is require to be acquired then a relative sacrifice is not objectionable. The petitioners in the instant matter utterly failed to substantiate as to how the acquisition of the land in question will effect environment and ecology adversely to the extent of irreparable loss. No sufficient material is available on record on basis of which it can be said that acquisition of the land in question will effect the environment and ecology of the area concerned adversely and that will cause a relatively grievous injury then the failure of public purpose for which the land is sought to be acquired. I do not find any force in the contention of counsel for the petitioners

that cutting of trees in every case effects environment and ecology adversely. Some times it become necessary for development of society and for the area at large. Such cutting of tree is permitted if it does not effect environment and ecology to the extent of its irretrievability by making suitable efforts. If the loss caused can be compensated adequately then priority must be given to public development.

The petition for writ in fact is having no foundation to challenge the notifications impugned as no material is placed before the Court to substantiate the contention raised.

The petition for writ, therefore, is dismissed.

(GOVIND MATHUR),J.

kkm/ps.